

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF WEST VIRGINIA**

GARY W. RICH and LAW OFFICE OF GARY)	
W. RICH, L.C.,)	
)	
Plaintiffs/Counter-Defendants,)	Civil Action No. 1:12-cv-12-IMK
)	
v.)	Judge Irene Keeley
)	
JOSEPH SIMONI,)	Magistrate Judge Michael Aloï
)	
Defendant/Counter-Plaintiff.)	
)	
<hr/> GARY W. RICH and LAW OFFICE OF GARY)	
W. RICH, L.C.,)	
)	
Third-Party Plaintiffs,)	
)	
v.)	
)	
BARON AND BUDD, a professional)	
corporation; COCHRAN, CHERRY, GIVENS,)	
SMITH, LANE & TAYLOR P.C.; and LEVIN,)	
PAPANTONIO, THOMAS, MITCHELL,)	
RAFFERTY & PROCTOR, P.A.,)	
)	
Third-Party Defendants.)	
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**OBJECTION TO THIRD-PARTY DEFENDANTS' RESPONSE
TO THE COURT'S ORDER**

Plaintiffs/Counter-Defendants/Third-Party Plaintiffs/Third-Party Counter-Defendants

Gary W. Rich and Law Office of Gary W. Rich, L.C. hereby respond briefly to the Third-Party Defendants' Response to the Court's Order (Doc. 237) so as to state specifically their objection to the Third-Party Defendants' request for "permission to amend [their] counter-complaints now, rather than requiring [them] to file a motion for leave to amend." (Doc. 237 at 2.) LR Civ P 15.01 expressly mandates that "[a]ny party filing a motion to amend a pleading that requires leave of court to file, shall attach to that motion a signed copy of the proposed amended

pleading.” The Third-Party Defendants’ request, if granted, would result in their being granted leave to amend without having first provided a copy of the proposed amended pleading either to the Court or to opposing counsel, as required by the Rule and as we have requested of the Third-Party Defendants so that we can determine whether we consent or not to the proposed amendment.

Accordingly, Plaintiffs/Third Party Counter-Defendants object to proceeding in the fashion suggested by the Third-Party Defendants as it deviates from the process contemplated by the Federal Rules of Civil Procedure and the Court’s Local Rules.

Respectfully submitted,

DATED: November 20, 2015

/s/ E. Ryan Kennedy

Richard W. Gallagher (Bar No. 1327)

E. Ryan Kennedy (Bar No. 10154)

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Counsel for Plaintiffs/Counter-Defendants

CERTIFICATE OF SERVICE

I, E. Ryan Kennedy, counsel for Plaintiffs/Counter-Defendants Gary W. Rich and the Law Office of Gary W. Rich, L.C., do hereby certify that I have caused to be served the foregoing **OBJECTION TO THIRD-PARTY DEFENDANTS' RESPONSE TO THE COURT'S ORDER** upon the below counsel of record this 20th day of November, 2015, via the Court's electronic filing system:

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DATED: November 20, 2015

/s/ E. Ryan Kennedy
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